REMARKS

The claims have been amended with a view to overcoming the claim rejections under 35 USC § 112. Reconsideration of the rejection of the claims under 35 USC 112 is respectfully requested

As to the double patenting rejection of claims 6 – 13 and 15 – 16, it is noted that the co-pending application 08/986,007 has not yet issued, in fact, has not yet been allowed and it is therefore not sure whether a patent will issue. The filing of a terminal disclaimer is therefore considered to be premature and is consequently postponed.

Concerning the Examiner's rejection of claims 6 and 15 under 35 USC § 102 on the basis of US 5 082 630 (Partin et al.), it is noted that this patent discloses a fiber optic detector for immuno-testing, wherein antibodies are attached to the distal end of an optical fiber or wave guide and the antibodies are saturated with fluorescently tagged antigens wherein a decrease in fluorescence indicates the presence of a suspected chemical compound in an air sample to which the fiber optic detector is exposed.

Claim 6 and 15 define among others that the conjugated protein antigen has a reaction site which is essentially identical to that of the medical substance to be detected and which is fixed to the resonance material which is different from the structure of Partin et al.. Furthermore, it is noted that the present invention as defined in claim 6 relates to an apparatus for measuring a medical substance contained in a sample using a resonance phenomenon which is different from a detector for immuno-testing as disclosed in Partin et al. – or for that matter in Charles et al. (WO 90/11525) which discloses a surface plasmon resonance sensor for performing a displacement immunoassay.

Claims 7 – 10 have been amended so as to overcome the Examiner's objection that these claims are directed only to an intended use.

Concerning the Examiner's rejection of claims 6 – 13 and 15 - 16 under 35 USC 103(a) as being unpatentable over Batchelder et al. (US 4 844 613) in view of Charles et al. because Batchelder et al. (US 4 844 613) discloses an optical surface plasmon sensor which comprises a transparent prism which supports a glass slide and a layer of conductive metal, typically gold, on the glass slide, wherein the metal layer is coated with

antibodies for bio-sensing applications wherein a change of the antibody layer thickness causes a change of 0.01 degrees in the resonance angle for a source wavelength of 820 nm, it is noted that, while this is a very specific example for detecting an antibody layer thickness change, it is actually not clear how this arrangement would render obvious the present invention as defined in claims 6 – 13 and 15 -16 of the present application.

Reconsideration of the Examiner's rejection of claims 1 – 16 of the present application is therefore respectfully requested and allowance of the claims is solicited.

Respectfully submitted,

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